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5 Attorney for Plaintiffs SHARIF AHMAD  
and DELVONNIA COOPER  
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10 UNLIMITED CIVIL JURISDICTION

11 SHARIF AHMAD and DELVONNIA  
COOPER,

12 Plaintiffs,  
13

14 v.

15 DOORDASH, INC. and DOES 2 to 50,

16 Defendants.  
17

Case No. RG21108961

**SECOND AMENDED COMPLAINT**

Complaint Filed: August 12, 2021  
1st Am. Complaint Filed: August 23, 2021

Trial Date: None Set Yet

18 COME NOW Plaintiffs SHARIF AHMAD and DELVONNIA COOPER (erroneously named  
19 in the original Complaint as “DELVOONIA COOPER”) and allege as follows.

20 **PARTIES AND VENUE**

21 1. Plaintiff SHARIF AHMAD (“SHARIF”) is an individual over the age of 18 who resides  
22 in the County of Contra Costa

23 2. Plaintiff DELVONNIA COOPER (“DELVONNIA”) is an individual over the age of 18  
24 who resides in the County of Alameda.

25 3. Defendant DOORDASH, INC. (“DOORDASH”) is a Delaware corporation, licensed to  
26 do business in the State of California, and has offices in the County of San Francisco.

27 4. Helen Ilda Dale was initially sued as a DOE defendant but was subsequently identified  
28 by name, and a First Amended Complaint was filed, naming her. Ms. Dale subsequently settled out of

1 this case and is being dismissed from this action. Thus, Ms. Dale is not a defendant for purposes of this  
2 Second Amended Complaint.

3 5. The true names and capacities of defendants sued herein as DOES 2 through 50 are  
4 unknown to Plaintiffs who therefore sue these Defendants by such fictitious names. Plaintiffs will  
5 amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are informed  
6 and believe, and thereon allege that each of these fictitiously named Defendants is responsible in some  
7 manner, jointly and/or severally, for the occurrences herein alleged, and that Plaintiffs' injuries as herein  
8 alleged were proximately and legally caused by the conduct of these DOE defendants.

9 6. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned  
10 the Defendants, and each of them, were the principals, agents acting within the scope of agency,  
11 servants, employers, employees within the scope of employment, joint venturers and/or partners of their  
12 Co-Defendants, and that when they were so acting they were and are jointly and/or severally liable,  
13 together with their Co-Defendants, for the injury to Plaintiffs as hereinafter alleged. Plaintiffs are also  
14 informed and believe and upon such information allege that the Defendants and each of them authorized  
15 and/or ratified the conduct of each and every one of the Co-Defendants.

16  
17 **GENERAL ALLEGATIONS**

18 7. DOORDASH is a multi-billion dollar corporation that operates in all 50 U.S. states,  
19 including California. DOORDASH is in the business of delivering food from restaurants to customers  
20 of DOORDASH. DOORDASH's business model is predicated on speed. To emphasize that goal,  
21 DOORDASH chose a corporate name that equates its product with speed, and it refers to its drivers as  
22 "Dashers." According to Wikipedia, *circa* December 2021, DOORDASH is the largest food delivery  
23 company in the U.S. and on information and belief has thousands of Dashers working for it in California.  
24 (<https://en.wikipedia.org/wiki/DoorDash>)

25 8. In order to be eligible to make deliveries, Dashers must, as a practical reality, drive their  
26 cars to densely-populated areas and then await notification from DOORDASH that an order is ready for  
27 pickup and delivery. DOORDASH's business model relies on having this ready and willing pool of  
28 drivers in their cars and on the streets, awaiting such notification. As a practical matter, Dashers tend

1 to congregate in densely-populated areas, near both restaurants and potential delivery addresses, to await  
2 orders. On information and belief, at any given time there may be dozens of DOORDASH drivers on  
3 the streets of Berkeley, hundreds on the streets of Alameda County, and thousands on the streets of the  
4 California, who are either responding to new orders or returning to the “waiting area” between  
5 deliveries.

6 9. Dashers are not paid a salary but are compensated solely based on the volume of orders  
7 they deliver. Thus, there is an economic incentive for Dashers to complete trips as quickly as possible  
8 because completing a delivery frees that Dasher to accept another delivery order. Dashers are essentially  
9 competing with each other to finish deliveries quickly in order to be ready for the next delivery.

10 10. It is foreseeable that DOORDASH’s business model of encouraging Dashers to flock to  
11 certain localities and encouraging them to compete for delivery orders will result in increased rates of  
12 motor vehicle accidents, including automobile-versus-pedestrian accidents, as in the case at bar.

13 11. Being ready for the next delivery includes remaining logged into DOORDASH’s app  
14 and being able to receive communications from DOORDASH. DOORDASH communicates with its  
15 Dashers via a mobile app that Dashers download onto their cellphones. Aside from the app itself,  
16 DOORDASH also communicates with its Dashers via cell phone text messages. Additionally,  
17 DOORDASH encourages its Dashers to communicate with its customers directly regarding the status  
18 of an order. For example, a DOORDASH customer can send a message to a Dasher asking when the  
19 food will be delivered.

20 12. According to the California State Transportation Agency, Office of Traffic Safety,  
21 **engaging in visual-manual subtasks, such as reaching for a phone, dialing or texting, increases the**  
22 **risk of getting into an accident by three times.** (<https://gosafelyca.org/distracted-driving/>) A 2019  
23 statewide traffic safety survey discovered that nearly 60% (57.9%) of California drivers surveyed said  
24 they had been hit or nearly hit by a driver who was talking or texting on a cell phone. (*Id.*) More than  
25 half (51.3%) of drivers surveyed admitted to making a mistake while talking on a cell phone. (*Id.*) And  
26 46.7% of Californians agreed that texting while driving is the most serious distraction for drivers. (*Id.*)

27 13. On July 26, 2021, Helen Ilda Dale was delivering food for DOORDASH. At  
28 approximately 9:54 PM, Ms. Dale’s vehicle struck the Plaintiffs’ mother, Latitia Austin Ahmad, killing

1 her. The collision occurred in an unmarked crosswalk on Ashby Avenue, a.k.a. State Route 13, in  
2 Berkeley, California.

3 14. After striking Plaintiffs' mother, Ms. Dale stopped and backed up a few feet. She was  
4 approached by Plaintiff SHARIF AHMAD, who attempted to prevent her from leaving the scene. Ms.  
5 Dale then rapidly accelerated and drove away from the scene of the accident. In doing so, Ms. Dale  
6 *again* struck the prone body of Plaintiffs' mother and also struck DELVONNIA COOPER, who had  
7 gone to her mother's aid after the first collision, seriously injuring her. In her attempt to leave the scene,  
8 Ms. Dale also dragged SHARIF AHMAD several feet, as he was holding onto her car, injuring him.

9 15. Prior to being dismissed from this action, Ms. Dale was deposed. She testified that when  
10 she applied to work for DOORDASH in December 2020, she did not have a California driver's license  
11 and that she never obtained a California driver's license prior to the July 26, 2021 accident. She admitted  
12 that she had two (2) moving violations while driving in Oregon, in 2019. Ms. Dale also testified that at  
13 the time of the accident, she was still fairly new to the area and was not familiar with the streets. For  
14 example, she didn't know Ashby Avenue well and didn't even know that she was on Ashby Avenue at  
15 the time of the accident. In her own words, she was "lost." She testified that shortly before the accident,  
16 she phoned a friend for directions. Call records indicate that the phone call was placed at 9:29 PM and  
17 that it lasted for approximately 25 minutes. (The math is not inconsistent with her being on the phone,  
18 talking, at the time of the accident.) Ms. Dale testified that she didn't see Latitia prior to the collision  
19 and that she didn't even know what side of Ashby Avenue Letitia was crossing from. The videotape of  
20 the accident from a surveillance camera confirms that Ms. Dale failed to stop or slow down before  
21 striking Latitia. Ms. Dale's failure to stop or even slow down suggests that she had taken her eyes  
22 completely off the road for a substantial period of time while driving and prior to striking Latitia.

23 16. Ms. Dale admitted that her car did not have a mount for the phone she was using. She  
24 testified that she stood her smartphone straight up, in an open area near the gearshift. She admitted that  
25 she had to look down from the windshield to see her smartphone.

26 17. Ms. Dale testified that the application process to become a Dasher was entirely online.  
27 There was no in-person interview. There was no inspection of her car. She provided DOORDASH  
28 with copies of her Oregon drivers license, her car registration, and insurance documents. Nobody from

1 DOORDASH asked her if she had a mount for her smartphone or told her that California law required  
2 that she have one. Nobody from DOORDASH told her that it was illegal to use an unmounted cell  
3 phone while driving or advised her that she should not drive while using an unmounted cell phone.  
4 Also, she testified that nobody from DOORDASH advised her that California requires that new residents  
5 obtain a California-issued drivers license within 10 days of moving to California.

6 18. Ms. Dale also testified that throughout her shift on July 26, 2021, DOORDASH regularly  
7 sent her app notifications and text messages regarding potential orders/deliveries. These notifications  
8 and text messages were transmitted while she was driving and during the time of the subject accident.

9 19. In DOORDASH's own words, it "is a technology company . . . building the last-mile  
10 infrastructure for local commerce." On information and belief, DOORDASH currently possesses the  
11 technology to ensure that its drivers in California comply with, or at a minimum are instructed on,  
12 California law regarding the use of cell phone mounts and hands-free driving.

13 20. To the extent that DOORDASH purports to be the "last-mile infrastructure for local  
14 commerce," it owes a duty to make sure that its "infrastructure" it has reasonable safeguards that will  
15 discourage or prevent illegal cellphone use while driving.

16 21. On information and belief, DOORDASH's business practice of flooding the streets with  
17 Dashers and repeatedly texting and otherwise communicating with them, while failing to ensure that its  
18 Dashers comply with California law, has substantially increased the statistical risk of accidents resulting  
19 in injury or death in California, like the one here. **That increased statistical risk has translated into**  
20 **a quantifiable number of actual accidents that are attributable to cell phone-related distracted**  
21 **driving by Dashers.** DOORDASH is presumably in possession of the precise number of injury  
22 accidents caused by Dashers in California, but it has thus far refused to produce that information.)

23  
24 **FIRST CAUSE OF ACTION**  
25 **Negligence**  
26 **(By All Plaintiffs Against All Defendants)**

27 22. Plaintiffs incorporate by this reference the allegations of the preceding paragraphs as  
28 though fully set forth herein.

29 23. Ms. Dale owed a duty of reasonable care toward Plaintiffs and their deceased mother to

1 be reasonably diligent and vigilant while driving and not to drive while distracted. As described above,  
2 Ms. Dale breached that duty by not having a usable phone mount in her car, texting, receiving texts,  
3 utilizing the DOORDASH app, making phone calls, and diverting her attention from her windshield  
4 down to her phone, while she was driving her car for DOORDASH. As a result of Ms. Dale's failure  
5 to exercise due care, she became distracted to the point where she collided with Plaintiffs' mother and  
6 with DELVONNIA. She also drove negligently and recklessly when leaving the scene of the accident,  
7 injuring SHARIF. Ms. Dale's acts and omissions were a substantial factor in causing Plaintiffs to suffer  
8 damages.

9       24. Veh. Code § 23123 prohibits using a cell phone while driving unless that telephone is  
10 specifically designed and configured to allow hands-free listening and talking, and is used in that manner  
11 while driving. As set forth above, Ms. Dale violated that section, and that violation was a substantial  
12 cause of the accident. Section 23123 was passed to prevent exactly this type of accident. Plaintiffs and  
13 their mother were among the class of persons the section was intended to protect. Thus, Ms. Dale was  
14 negligent *pr se* for any harm that resulted from her conduct.

15       25. Latitia Austin Ahmad was the biological mother of both Plaintiffs, and Plaintiffs are  
16 siblings. As set forth above, Plaintiffs were physically present when their mother was struck by Ms.  
17 Dale, and when each respective sibling was injured by Ms. Dale's driving. Plaintiffs observed the  
18 incident, including the injuries inflicted by Ms. Dale on their mother and on each other. Under *Dillon*  
19 *v. Legg* (1968) 68 Cal.2d 728, Ms. Dale owed a duty to Plaintiffs to not negligently cause them to suffer  
20 emotional distress in the course of causing direct injury to each other and to their mother. Ms. Dale's  
21 acts and omissions breached that duty and were a substantial factor in causing Plaintiffs to suffer extreme  
22 emotional distress.

23       26. As set forth above, Plaintiffs have alleged that Ms. Dale was employed by DOORDASH  
24 and that she was acting within the scope of her employment at the time of the accident. Alternatively,  
25 Ms. Dale was an agent for DOORDASH at the time acting within the scope of her agency. Under either  
26 theory, DOORDASH is liable to Plaintiffs for the Ms. Dale's negligent acts and omissions, under the  
27 doctrine of *respondeat superior*.

28       27. Under the doctrine of *respondeat superior*, Ms. Dale's *per se* negligent violation of Veh.

1 Code § 21323, is imputed to DOORDASH.

2 28. Additionally, DOORDASH’s own actions and/or omissions directly resulted in  
3 DOORDASH breaching a duty of care to Plaintiffs and causing them injury. Insofar as Ms. Dale was a  
4 DOORDASH employee at the time of the incident, DOORDASH had a duty to exercise due care in  
5 hiring, training, and/or supervising her. DOORDASH had a duty to take reasonable steps to prevent  
6 Ms. Dale from driving while distracted while delivering DOORDASH orders. DOORDASH breached  
7 those duties when it hired Ms. Dale despite her history of moving violations, her lack of a California  
8 drivers license, her lack of experience driving in the area, and the lack of a mount in her car for her cell  
9 phone. DOORDASH also negligently failed to train/advise Ms. Dale by failing to inspect her car and/or  
10 by requiring and verifying that Ms. Dale was able to deliver DOORDASH orders without violating  
11 California laws that prohibit distracted driving.

12 29. Alternatively, Ms. Dale was an independent contractor of DOORSASH. DOORDASH  
13 owed a duty to the public and to Plaintiffs to exercise due care in the selection and hiring of an  
14 independent contactor. By virtue of its above-described acts/omissions, DOORDASH breached its duty  
15 of due care, and that breach was a substantial factor in causing Plaintiffs’ damages.

16 30. Regardless of the legal status between DOORDASH and Ms. Dale, DOORDASH owed  
17 an affirmative duty to Plaintiffs (and to the public) not to interfere with Ms. Dale’s operation of her  
18 automobile by distracting her. This duty is codified at Veh. Code § 21701: “**No person shall wilfully**  
19 **[sic] interfere with the driver of a vehicle or with the mechanism thereof in such manner as to**  
20 **affect the driver's control of the vehicle.**” DOORDASH breached that duty to Plaintiffs, as stated  
21 above, by sending text messages and in-app messages to Mr. Dale while she was driving without  
22 ensuring that her phone was mounted and usable in a hands-free manner.

23 31. The aforementioned duty applies *regardless* of the intention of the party who causes the  
24 distraction. (*Reclusado v. Magnum* (1964) 228 Cal.App.2d 8 - “Many acts which [section 21701] is  
25 designed to prevent are not accompanied by an actual wish to interfere directly with the operation of the  
26 car.” *Id.* at 15.)

27 32. As stated in the statistics recited above, it is widely known that **a specific and**  
28 **substantial percentage of drivers illegally text/call and drive**, and this is widely perceived to be a

1 significant danger on the roadways. DOORDASH fails to monitor compliance with Veh. Code 23123.  
2 By virtue of its business practice of texting drivers, DOORDASH willfully interferes with an  
3 ascertainable population of drivers at any given time, in violation of Veh. Code § 21701.

4 33. The facts of this case also support a theory of liability against DOORDASH based on its  
5 **aiding and abetting** violations of Veh. Code §§ 21323 and/or 21701 by its Dashers. That is  
6 DOORDASH knows that a substantial percentage of Dashers are driving in violation of those code  
7 sections, yet it and gives substantial assistance and/or encouragement to them, going so far as to contact  
8 them while they are driving in order to induce them to generate revenue for DOORDASH.  
9 DOORDASH, as a an aider/abettor, is liable for the torts of its drivers who violate those code sections.  
10 (*Navarette v. Meyer* (2015) 237 Cal.App.4<sup>th</sup> 1279.)

11 34. By retroactively paying damages to injured parties, rather than mandating that its Dashers  
12 comply with California's distracted driving laws, DOORDASH has essentially ratified these violations  
13 as a business practice. It has chosen to aid and abet these violations, calculating that in the event of an  
14 accident it's liability will be limited to a single payout rather than having to change its business practices  
15 to comply with applicable law. Unfortunately for the public and for Plaintiffs, there is a human cost to  
16 that practice. Plaintiffs and their mother subsidized DOORDASH's business model with their bodies.

17 35. Pursuant to Civ. Code § 3294, a defendant may be liable for exemplary damages when  
18 it is proven by clear and convincing evidence that it was guilty of oppression, fraud, or malice.

19 36. On information and belief, DOORDASH is aware of the aforementioned statistics  
20 documenting the hazards of distracted driving. Also on information and belief, there have been  
21 numerous motor vehicle accidents, including automobile-versus-pedestrian accidents, caused by  
22 DOORDASH drivers who were distracted as a result of interacting with DOORDASH and its customers  
23 through their cell phones. Despite being aware of the direct causal role played by texting/messaging by  
24 Dashers in these accidents, DOORDASH has thus far failed to implement technology that would prevent  
25 Dashers from illegally texting while driving. It turns a blind eye to the corners its drivers are statistically  
26 likely to cut in the name of profit.

27 37. Based on published statistics, DOORDASH *knows* that a percentage of its drivers violate  
28 California law regarding distracted driving. DOORDASH has made a conscious decision not to reduce



1 or prevent those violations despite being able to do so by placing appropriate restrictions on cell phone  
2 use while driving. That conscious decision amounts to a conscious disregard of the safety of the public,  
3 including Plaintiffs in this case. “Nonintentional torts may also form the basis for punitive damages  
4 when the conduct constitutes conscious disregard of the rights or safety of others” (*Peterson v. Sup Ct.*  
5 (1982) 31 Cal.3d 147, 158, citing *Taylor v. Sup. Court* (1979) 24 Cal.3d 890.) DOORDASH’s conscious  
6 disregard of the rights of California motorists and pedestrians, including Plaintiffs, meets the malice  
7 requirement set forth in section 3294, thus subjecting DOORDASH to punitive damages.

8 38. *Regardless* of the legal status between DOORDASH and Ms. Dale (and its 1 million  
9 other drivers), DOORDASH has consciously disregarded of common law and statutory duties, the well-  
10 known dangers of distracted driving, and its own history of accidents caused by distracted driving, and  
11 DOORDASH’s refusal to adopt technology to prevent distracted driving.

12 WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, as  
13 hereinafter set forth.

14  
15 **PRAYER**

16 Wherefore, Plaintiffs pray for the following relief:

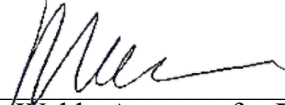
- 17 1. special damages, both for their personal injuries and arising from the wrongful death of  
18 their mother;
- 19 2. general damages, both for their personal injuries and arising from the wrongful death of  
20 their mother;
- 21 3. exemplary damages
- 22 4. injunctive relief prohibiting DOORDASH from continuing to violate Veh. Code §§  
23 23123 and/or 21701, and/or aiding/abetting any violation of those sections by implementing technology  
24 to ensure that its Dashers are not allowed to use the DOORDASH app or interact with DOORDASH  
25 unless they comply with those Veh. Code sections;
- 26 5. costs of litigation;
- 27 6. any applicable statutory damages;
- 28 7. attorneys fees, if applicable; and

1 8. Any other relief deemed by the Court to be appropriate.  
2

3 **Demand for Jury Trial**

4 Plaintiffs demand a trial of this matter by a jury.  
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6 Dated: December 13, 2021  
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8 Mark L. Webb, Attorney for Plaintiffs SHARIF  
9 AHMAD AND DELVÓNIA COOPER  
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